

Key Issues Memorandum

Scottish Information Commissioner

For the year ended 31 March 2010

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To the Auditor General for Scotland and the Scottish Information Commissioner (SIC).

The purpose of this memorandum is to highlight the key issues affecting the results of SIC and the preparation of the financial statements for the year ended 31 March 2010. It is also used to report to management to meet the mandatory requirements of International Standard on Auditing (UK & Ireland) 260.

We take responsibility for this memorandum, which has been prepared on the basis of the limitations set out in 'The small print' (Section 6).

We would like to take this opportunity to record our appreciation for the kind assistance provided by the Finance and Administration Manager, Head of Operational Management and other staff during our audit.

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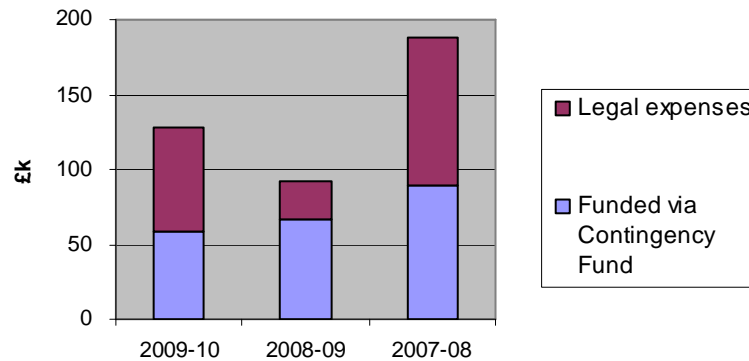
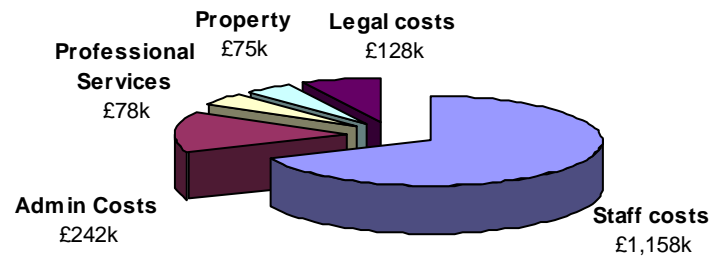
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1 Executive Summary

Financial Statements	
Audit Opinion	<ul style="list-style-type: none"> We intend to give an unqualified opinion on both the financial statements of SIC for 2009-10 and on the regularity of transactions undertaken during the financial year.
Financial Statements	<ul style="list-style-type: none"> The draft Financial Statements and supporting working papers were presented for audit on the 17th June 2010 and were of a high standard.
IFRS Conversion	<ul style="list-style-type: none"> We reviewed the draft 2009-10 IFRS accounts against the requirements of the 2009-10 FReM and concluded that the accounts are IFRS compliant.
Governance Issues	
Advisory Audit Board (AAB)	<ul style="list-style-type: none"> We reviewed the AAB against good practice principles within the Audit Committee Handbook, and identified some scope to improve compliance with good practice guidelines.
Case Management Software	<ul style="list-style-type: none"> SIC's case management software is outdated and no longer proactively supported by the supplier. This presents an increased risk of data loss and may impact negatively on operational efficiency.
Performance Issues	
Best Value	<ul style="list-style-type: none"> The Commissioner continues to revise and improve his approach to achieving economy, efficiency and effectiveness in the operations of his office and can demonstrate improvements in both productivity and in case management during the year.

2 Financial Performance



2.1 Financial Performance

The Commissioner receives cash funding from the Scottish Parliamentary Corporate Body (SPCB) for his annual budget. The Commissioner’s expenditure was within the agreed budget however, due to technical changes arising from the implementation of IFRS, a small deficit of £12k is recorded in the accounts. Staff costs are the main area of SIC’s expenditure and accounted for around 70% of total costs during the year.

2.2 Legal Costs incurred in Court of Session Hearings

The Commissioner can be subject to litigation by those affected by his decisions. As this figure highlights, the cost to the Commissioner of legal action vary significantly over time. It can be difficult to predict when court action will be taken against the Commissioner’s decisions, or accurately assess the potential associated costs of such litigation with any certainty. We identified this as a risk in the Audit Approach Memorandum because these costs can have a significant impact on whether the Commissioner achieves his budget. Under a Memorandum of Understanding between the Commissioner and the SPCB legal costs are, in the first instance, met from the Commissioner’s agreed budget. Once this is exhausted, the Commissioner can access the Officeholders’ contingency fund. This arrangement is regarded as critical to the Commissioner’s independence as it gives him the freedom to make decisions on merit.

3 Financial Statements

3.1 Introduction

In the conduct of our audit, we have not had to alter or change our audit plan, which we communicated to you in our Audit Approach Memorandum. Our response to the matters identified at the planning stage are detailed below.

3.2 Audit opinion

We intend to conclude that the Commissioner's financial statements give a true and fair view of the financial position for the period from 1 April 2009

to 31 March 2010 and that, in all material respects, the expenditure and receipts shown in the accounts were incurred or applied in accordance with applicable enactments and relevant guidance. We confirm that information which comprises the management commentary, included with the Annual Report, is consistent with the financial statements.

3.3 Matters identified at the planning stage

	Issue	Auditor response
1	<p>International Financial Reporting Standards (IFRS) Central government bodies are required to prepare their accounts on the basis of IFRS from 2009-2010. In readiness for this, SIC prepared an opening 2008 IFRS-based balance sheet which we have already reviewed and reported on.</p>	<p>We have carried out a comprehensive review of the draft 2009-10 IFRS accounts against the requirements of the 2009-10 FRem. There were no material errors identified and the accounts are IFRS compliant.</p>
2	<p>Ongoing court costs It can be difficult to predict where or when court action will be taken against the Commissioner's decisions, to determine the outcome of cases, or accurately assess the potential associated costs with any certainty.</p>	<p>We identified this as a risk in the Audit Approach Memorandum because these costs have an impact on whether the Commissioner achieves his budget. Under a Memorandum of Understanding between the Commissioner and the SPCB these costs are, in the first instance, met from the Commissioner's agreed budget. As section 2.2 highlights, once this is exhausted, the Commissioner can access the Officeholders' Contingency Fund. This arrangement is critical to the Commissioner's independence as it gives him the freedom to make decisions on merit.</p> <p style="text-align: right;">Refer to Action Plan Point 1</p>

4 Audit adjustments

4.1 Misstatements

The draft Financial Statements and supporting working papers were presented for audit on the 17th May 2010, and were of a high quality. A number of adjustments were, however, required to be made to the accounts.

All changes identified during the course of the audit were adjusted by the Finance and Administration Manager. There are therefore no unadjusted misstatements to report.

4.2 Adjusted misstatements

Journal	Balance sheet		Operating Cost Statement		Effect on OCS	Adjusted Y/N	Reason for not adjusting
	Dr	Cr	Dr	Cr			
Adjustment to Audit Fee	900			900			
Adjustment to Legal Fees	5,055			5,055			
	5,955			5,955	5,955	Y	

5 Governance

5.1 Introduction

Corporate governance is the system by which organisations direct and control their functions and relate to their stakeholders, and incorporates the way in which an organisation manages its business, determines strategy and objectives and goes about achieving those objectives. It is concerned with structures and processes for decision-making, accountability, control and behaviour at the upper levels of the organisation.

We examined:

- the role of the AAB
- case management software arrangements

5.2 Audit Approach

As part of our 2009-10 audit, we assessed the adequacy of SIC's governance arrangements against good practice standards for the public sector.

Specific issue identified in the AAM	Response
<p>The Advisory Audit Board (AAB) The AAB fulfils the audit committee role at the Commissioner's office, but there is a risk that it may not be fully compliant with the principles laid out in SPFM (audit committee handbook).</p>	<p>AAB members are drawn from the SPCB's AAB and provide a similar audit committee and advisory function for a number of SPCB sponsored bodies. This dual role presents a potential conflict of interest for AAB members - and the potential for a conflict of interest to emerge is greater in light of the increased role for the SPCB in monitoring and directing sponsored bodies.</p> <p>During our interim audit we noted that the Commissioner should be assured that the Advisory Audit Board remained independent, objective and risk focused. There is scope for the Commissioner to work with the AAB and other SPCB-supported bodies to ensure that audit committee arrangements can be developed that meet the needs of the Commissioner on a cost effective basis.</p>

Matter identified during the audit	Response
<p>Case Management Software The case management software that the Commissioner's office use is now reaching the end of its useful life. It is likely in the short term that the Commissioner may be the only organisation still using the current version of the software. The software supplier no longer proactively supports the software and it is very possible that ongoing maintenance and support will be come uneconomic, or be withdrawn by the supplier in the short term. This presents a higher risk of data loss and may impact on the operational efficiency of the organisation should the current case management software not be replaced.</p>	<p>In light of the shared services approach being adopted to meet required budget cuts, it may be appropriate for the Commissioner to use the newer version of the CHAS software as this version is also used by other SPCB sponsored bodies. However, the Commissioner must ensure that it is both economically advantageous to do so, and that procurement regulations are observed. The risk associated with continuing with the same software mean that the Commissioner must take steps to procure new case management software as a matter of priority.</p> <p style="text-align: right;">Refer to Action Plan Point 2</p>

6 Performance and Best Value

6.1 Introduction

All public bodies in Scotland have a duty to secure Best Value and continuous improvement. The public sector is facing a period of significant financial austerity, with significant budget cuts forecast for the period to 2013-14. Each of the SPCB supported bodies has been notified that they are likely to be required to make around 15-20% real terms reductions in budgets by 2013-14.

In many areas this means that the current level of service provision is unsustainable. Public pressure to deliver services as efficiently and cost effectively as possible means that being able to demonstrate that the organisation delivers Best Value is more important than ever.

6.2 Delivering Efficiencies

The scale of budget cuts required to be found by SPCB supported bodies means that the current way of working may no longer be viable. The SPCB has facilitated working groups to allow the Commissioner and Ombudsman office holders to work together to improve efficiency, including exploring the potential for shared services. The SIC's office has been tasked with reviewing accommodation costs. We noted that the Commissioner's office has the lowest accommodation costs per capita of all the SPCB supported bodies. There is therefore less scope for the SIC to make savings without impacting key priorities than some of the other SPCB supported bodies.

SIC had begun working collaboratively on procurement with the SPCB and the Commissioner for Children and Young People (SCCYP) in advance of the budget announcement. However, the Commissioner now needs to review each function of the organisation to assess whether

further savings can be made. In its *Improving Public Sector Efficiency* Report¹, Audit Scotland note that there is scope for public sector bodies to make significantly greater improvements in efficiency than have been achieved to date, and the need to do so is increasingly pressing.

Audit Scotland has produced a good practice checklist designed to challenge and support public bodies in making efficiency improvements. This approach may help SIC identify further areas for improvement, for example by focusing service reviews to ensure that each area of the business contributes to the key priorities identified within the Strategic Plan.

Refer to Action Plan Point 3

6.3 Performance against 2009/10 Business Plan

We reviewed the achievements that the Commissioner's office has made against its 2009-10 targets. The number of cases received in the year was slightly higher than expected, at just over 400 cases. However, a significantly lower number of cases were invalid than had been expected. This meant that the investigative workload was higher. Figure 3 highlights that despite this, the average age of cases closed continues to reduce to well within the target of 6 months. The Commissioner reports that the average age of closed cases is well within the target of 6 months. Notably, the number of cases that are over 12 months old has substantially reduced (Figure 4).

¹ *Improving Public Sector Efficiency*, Audit Scotland, February 2010

Figure 3: Productivity has improved

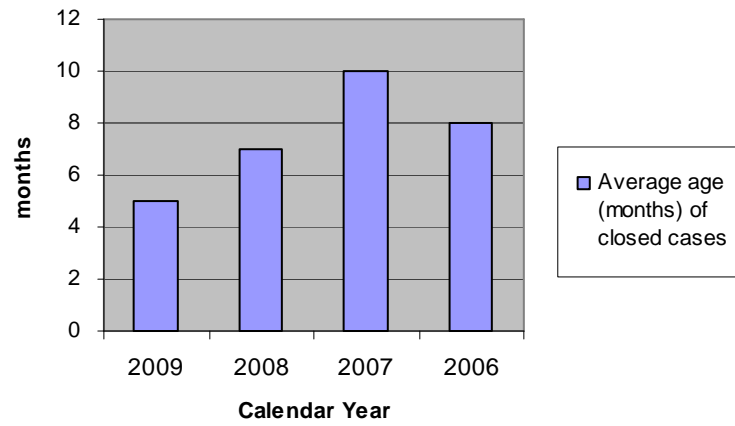
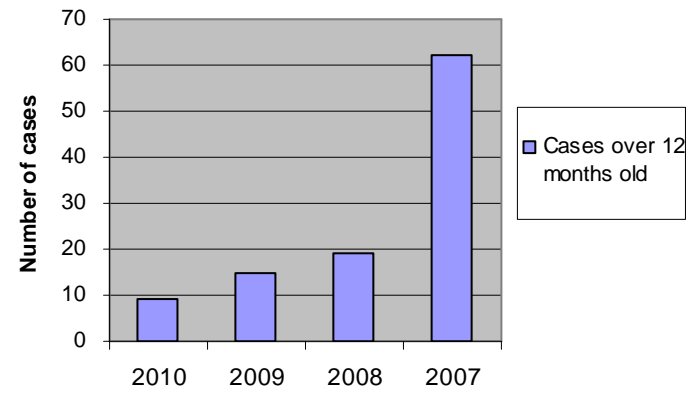


Figure 4 - The number of old cases has fallen



7 Action Plan

	Issue and risk	Assessment	Recommendation
1	<p>Legal Costs incurred at Court of Session The Commissioner's decisions may be legally challenged by anyone affected by his decisions. The likelihood and costs associated with legal challenges are difficult to predict.</p> <p>The Commissioner has a Memorandum of Understanding with the SPCB to allow access the Officeholders Contingency Fund for legal costs once his budget has been exhausted. There is a risk that this arrangement will be changed as a result of the current period of substantial budget pressures.</p>	Medium	<p>The Commissioner must ensure that suitable arrangements remain in place to fund potential future legal costs associated with administering his Office.</p> <p>Management Response: In addition to the general budget pressures faced by all public bodies, the SPCC etc. Act comes into force on 1 April 2011. It will be essential to ensure that the forthcoming guidance framework between the SPCB and SIC incorporates appropriate arrangements for the approval and payment of these costs.</p> <p>The Commissioner's Advisory Audit Board considers SIC's ability to defend appeals to the Courts as fundamental, and has expressed its strong concern that any new arrangements must protect his independence in this regard.</p>
2	<p>Case Management Software The case management software that the Commissioner's office use is now reaching the end of its useful life. It is likely in the short term that the Commissioner may be the only organisation still using the current version of the software. Crucially, the software supplier no longer proactively supports the software and it is very possible that ongoing maintenance and support will be come uneconomic, or be withdrawn by the supplier in the short term.</p>	<i>High</i>	<p>The Commissioner should take steps to procure new case management software as a matter of priority or obtain continued assurance of support from the existing software supplier.</p> <p>Management Response: A business case seeking capital funding for a replacement case management system will be submitted to the SPCB in early course.</p>

	Issue and risk	Assessment	Recommendation
3	<p>Improving Efficiency Good Practice Checklist Audit Scotland has produced a good practice checklist designed to challenge and support public bodies in making efficiency improvements. The checklist is generic in nature and should be applied proportionately by smaller organisations.</p>	<p>Medium</p>	<p>The Commissioner should use the good practice checklist as an aide-memoir to identify potential areas for efficiency improvement. This may be helpful in focusing service reviews to ensure that each function is delivered as efficiently as possible.</p> <p>Management Response: The Commissioner will draw upon the good practice checklist to support his ongoing work to improve efficiency.</p>

8 The small print

Purpose of memorandum

This Key Issues Memorandum has been prepared for the benefit of discussions between Grant Thornton and the Accountable Officer (the Commissioner).

The purpose of this memorandum is to highlight the key issues affecting the Commissioner's results and the preparation of the financial statements for the year ended 31st March 2010.

This document is also used to report to management to meet the mandatory requirements of International Standard on Auditing (UK & Ireland) 260.

We would point out that the matters dealt with in this report came to our attention during the conduct of our normal audit procedures which are designed primarily for the purpose of expressing our opinion on the financial statements of the Commissioner.

This memorandum is strictly confidential and although it has been made available to management to facilitate discussions, it may not be taken as altering our responsibilities to the Commissioner arising under our audit engagement letter.

Responsibilities of the Commissioner and auditors

The Commissioner is responsible for the preparation of the financial statements and for making available to us all of the information and explanations we consider necessary. Therefore, it is essential that the Commissioner confirms that our understanding of all the matters in this memorandum are appropriate, having regard to his knowledge of the particular circumstances.

Clarification of roles and responsibilities with respect to internal controls

The Commissioner is responsible for the identification, assessment, management and monitoring of risk, for developing, operating and monitoring the system of internal control and for providing assurance that he has done so.

The Commissioner is required to review his Office's internal financial controls. In addition, the Commissioner is required to review all other internal controls and approve the statements included in the annual report in relation to internal control and the management of risk.

The Commissioner should receive reports from management as to the effectiveness of the systems they have established as well as the conclusions of any testing conducted by internal audit or ourselves.

We have applied our audit approach to document, evaluate and assess your internal controls over the financial reporting process in line with the requirements of auditing standards.

Our audit is not designed to test all internal controls or identify all areas of control weakness. However, where, as part of our testing, we identify any control weaknesses, we will report these to you.

In consequence, our work cannot be relied upon to disclose defalcations or other irregularities, or to include all possible improvements in internal control that a more extensive special examination might identify.

Independence and robustness

Ethical standards require us to give you full and fair disclosure of matters relating to our independence.

We confirm that there are no significant facts or matters that impact on our independence as auditors that we are required or wish to draw to your attention. We have complied with the Auditing Practices Board's Ethical Standards and therefore we confirm that we are independent and are able to express an objective opinion on the financial statements.

In accordance with best practice, we analyse our fees below:

	£ incl VAT
Grant Thornton UK LLP	15,100
Audit Scotland fixed charge	1,800
Total	16,900

ISAUK 260 requires communication of:

- relationships that have a bearing on the independence of the audit firm and the integrity and objectivity of the engagement team
- nature and scope of the audit work
- the form of reports expected